

## **Blackfoot River Special Recreation Permit Program**

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### 12.11.6501 PURPOSE OF THE BLACKFOOT SPECIAL RECREATION PERMIT RULES

(1) The purpose of this subchapter is to establish a special recreation permit program for commercial use, competitive events, and organized group activities occurring on the Blackfoot River or lands adjacent to the Blackfoot River that are owned or managed by the department.

(2) The purpose of the special recreation permit program is to ensure that commercial use, competitive events, and organized group activities are compatible with the general recreating public and are consistent with the natural resource management objectives for the river and lands adjacent to the river that are owned or managed by the department.

(3) The special recreation permit program is designed to be consistent with the bureau of land management special recreation permit program in order to provide permittees a streamlined and efficient permitting process.

(4) The statewide rules governing river recreation management shall apply to future recreation management actions on the Blackfoot River. (History: 23-1-106, 23-2-103, 87-1-301, 87-1-303, MCA; IMP, 23-1-106, 87-1-301, 87-1-303, MCA; NEW, 2005 MAR p. 430, Eff. 4/1/05.)

Rules 12.11.6502 through 12.11.6504 reserved

### 12.11.6505 SPECIAL RECREATION PERMIT DEFINITIONS

(1) "Commercial use" means recreational use of lands owned or managed by the department and related waters for business or financial gain and includes any person, group or organization, including nonprofit organizations and academic institutions that make or attempt to make a profit, vend a service or product, receive money, amortize equipment, or obtain goods or services as compensation from participants in recreational activities occurring on lands or related waters that are owned or managed by the department.

(2) "Competitive event" means any organized, sanctioned, or structured use, event, or activity on lands owned or managed by the department or related waters in which two or more contestants compete, the participants register, enter, or complete an application for the event, and/or a predetermined course or area is designated.

(3) "Organized group activity" means a structured, ordered, consolidated, or scheduled event on, or occupation of, lands owned or managed by the department or related waters that is not commercial or competitive.

(4) "Publicly advertised event or activity" means a competitive event or organized group activity that is advertised to the general public, via newspaper, radio, flier, public newsletter, etc., or the event is posted on a web site accessible from the internet. A local network within an office or organization that is not accessible to the public via the internet would not meet the requirement of publicly advertised.

(5) "Vending" means the sale of goods or services, not from a permanent structure, associated with recreation on the lands owned or managed by the department or related waters, including but not limited to food, beverages, clothing, firewood, souvenirs, photographs or film (video or still) or equipment repairs. (History: 23-1-106, 23-2-103, 87-1-301, 87-1-303, MCA; IMP, 23-1-106, 87-1-301, 87-1-303, MCA; NEW, 2005 MAR p. 430, Eff. 4/1/05.)

Rules 12.11.6506 through 12.11.6509 reserved

12.11.6510 APPLICABILITY (1) This subchapter applies to:

(a) all legally accessible portions of the Blackfoot River from its headwaters to its confluence with the Clark Fork River near Bonner, Montana;

(b) the North Fork of the Blackfoot River downstream from the United States forest service boundary to the river's confluence with the main stem of the Blackfoot River; and

(c) lands adjacent to the Blackfoot River and the North Fork of the Blackfoot River that are owned or managed by the department.

(History: 23-1-106, 23-2-103, 87-1-301, 87-1-303, MCA; IMP, 23-1-106, 87-1-301, 87-1-303, MCA; NEW, 2005 MAR p. 430, Eff. 4/1/05.)

Rules 12.11.6511 through 12.11.6514 reserved

12.11.6515 WHEN A SPECIAL RECREATION PERMIT IS REQUIRED

(1) Except as provided in ARM 12.11.6520, special recreation permits must be obtained for:

- (a) commercial use;
- (b) a competitive event; or
- (c) an organized group activity.

(2) The special recreation permit implemented by this subchapter is issued in lieu of a special use permit provided for under the Montana Fish, Wildlife and Parks, State Parks System Biennial Fee Rule for group use.

(3) A special recreation permit may be requested for a day, season of use, or other time period, up to a maximum of five years. The department will determine the appropriate term on a case-by-case basis. (History: 23-1-106, 23-2-103, 87-1-301, 87-1-303, MCA; IMP, 23-1-106, 87-1-301, 87-1-303, MCA; NEW, 2005 MAR p. 430, Eff. 4/1/05.)

Rules 12.11.6516 through 12.11.6519 reserved

12.11.6520 BLACKFOOT RIVER PERMIT WAIVERS (1) The department may waive the requirement to obtain a special recreation permit for a competitive event or organized group activity if the event or activity:

- (a) is not commercial;
- (b) does not award cash prizes;
- (c) is not publicly advertised;
- (d) poses no appreciable risk for damage to lands owned or managed by the department or related water resource values;
- (e) requires no specific management or monitoring;

(f) is consistent with the recreation management guidelines in the department's Blackfoot River Recreation Management Direction; and

(g) poses no appreciable risk to public health and safety.

(2) The department may waive the requirement to obtain a special recreation permit for commercial use, a competitive event or organized group activity if the use, event or activity:

(a) is conducted by an individual or entity owning land adjacent to the Blackfoot River that is managed by the department; and

(b) occurs entirely on the land owned by the individual or entity and managed by the department. (History: 23-1-106, 23-2-103, 87-1-301, 87-1-303, MCA; IMP, 23-1-106, 87-1-301, 87-1-303, MCA; NEW, 2005 MAR p. 430, Eff. 4/1/05.)

Rules 12.11.6521 through 12.11.6524 reserved

12.11.6525 SPECIAL RECREATION PERMITS AND HUNTING, TRAPPING AND FISHING LICENSES (1) Persons holding a valid department license do not need a special recreation permit to hunt, fish or trap. Persons hunting, fishing, or trapping shall comply with hunting, fishing and trapping license requirements. Special recreation permits do not alone authorize hunting, fishing, and trapping.

(2) Outfitters providing services to hunters, trappers, or anglers shall obtain special recreation permits from the department. (History: 23-1-106, 23-2-103, 87-1-301, 87-1-303, MCA; IMP, 23-1-106, 87-1-301, 87-1-303, MCA; NEW, 2005 MAR p. 430, Eff. 4/1/05.)

Rules 12.11.6526 through 12.11.6529 reserved

12.11.6530 APPLYING FOR SPECIAL RECREATION PERMITS

(1) All persons sponsoring or conducting commercial uses and competitive events requiring a special recreation permit should apply to the department at least 60 days before the use is intended to begin in order for the department to process the application and determine whether environmental analysis is required. The department shall attempt to process applications received less than 60 days before the use is intended to begin on a case-by-case

basis. The department shall inform applicants of the status of their application within 30 days after the filing date of the application. The department may require more than 60 days to process an application if the proposed use or event requires significant environmental analysis.

(2) All persons sponsoring or conducting an organized group activity should contact the department at least 30 days before the activity is intended to begin. The department shall attempt to process applications received less than 30 days before the use is intended to begin on a case-by-case basis. The department shall inform applicants of the status of their application within 14 days after the filing of the application. The department may require more than 30 days to process an application if the proposed activity requires significant environmental analysis. (History: 23-1-106, 23-2-103, 87-1-301, 87-1-303, MCA; IMP, 23-1-106, 87-1-301, 87-1-303, MCA; NEW, 2005 MAR p. 430, Eff. 4/1/05.)

Rules 12.11.6531 through 12.11.6534 reserved

12.11.6535 SPECIAL RECREATION PERMIT: REQUIRED APPLICATION INFORMATION (1) An application for a special recreation permit must include:

- (a) a completed special recreation application and permit form; and
- (b) other relevant information in sufficient detail to allow the department to evaluate the nature and impact of the proposed activity, including measures the applicant will use to mitigate adverse impacts. (History: 23-1-106, 23-2-103, 87-1-301, 87-1-303, MCA; IMP, 23-1-106, 87-1-301, 87-1-303, MCA; NEW, 2005 MAR p. 430, Eff. 4/1/05.)

Rules 12.11.6536 through 12.11.6539 reserved

12.11.6540 PERMITTING DECISIONS (1) The department has discretion over whether to issue a special recreation permit. Permitting decisions are based on the following factors to the extent that they are relevant:

- (a) conformance with laws, rules, recreation management plans, and land use plans;

- (b) public safety;
- (c) conflicts with other users in regard to timing, location, site capacity, and other similar considerations;
- (d) resource protection;
- (e) the public interest served;
- (f) whether in the past the applicant complied with the terms of his/her permit or other authorization from the department and other agencies;
- (g) conformance with maximum group size requirements identified in the department's environmental assessment decision notice and the department's parks division biennial fee rule; and
- (h) such other information that the department finds appropriate.  
(History: 23-1-106, 23-2-103, 87-1-301, 87-1-303, MCA; IMP, 23-1-106, 87-1-301, 87-1-303, MCA; NEW, 2005 MAR p. 430, Eff. 4/1/05.)

Rules 12.11.6541 through 12.11.6544 reserved

#### 12.11.6545 BLACKFOOT RIVER SPECIAL RECREATION PERMIT FEES

(1) The department shall require payment of fees for commercial use, competitive events, and organized group activities requiring a special recreation permit that occur on, or originate or terminate on lands adjacent to the Blackfoot River that are owned or managed by the department, except as provided in (2).

(2) The department may waive special recreation permit fees on a case-by-case basis for:

(a) noncommercial use for organized group activities that are for educational purposes, accredited academic, scientific, and research institutions, therapeutic, providing a public service, or administrative uses; and

(b) commercial use, competitive events, or organized group activities conducted by individuals or entities entirely on land they own adjacent to the Blackfoot River that is managed by the department and available to the public.

(3) Fees pursuant to this rule shall be established through the department's biennial fee rule process.

(4) The department may adjust the fees as necessary to reflect changes in costs and the market and to ensure consistency with the special recreation permit fees established by the bureau of land management.

(5) The department may charge a fee for recovery of costs associated with significant environmental analysis when processing a permit application.

(6) Applicants must pay the required fees before the department authorizes special recreation permit use and by the deadlines that the department shall establish in each case. The department may not process or continue processing applications until the required fees or installments are paid. (History: 23-1-105, 23-1-106, 23-2-103, 87-1-301, 87-1-303, MCA; IMP, 23-1-106, 87-1-301, 87-1-303, MCA; NEW, 2005 MAR p. 430, Eff. 4/1/05.)

Rules 12.11.6546 through 12.11.6549 reserved

12.11.6550 WHEN FEES ARE REFUNDABLE (1) For multi-year commercial permits, if the permittee's actual fees due are less than the estimated fees that the permittee paid in advance, the department shall credit overpayments to the following year or season. For other permits, the department shall provide the option of receiving a refund or crediting overpayments to future permits.

(2) Application fees and minimum annual commercial use fees are not refundable. (History: 23-1-105, 23-1-106, 23-2-103, 87-1-301, 87-1-303, MCA; IMP, 23-1-106, 87-1-301, 87-1-303, MCA; NEW, 2005 MAR p. 430, Eff. 4/1/05.)

Rules 12.11.6551 through 12.11.6554 reserved

12.11.6555 SPECIAL RECREATION PERMIT STIPULATIONS

(1) The department shall establish stipulations that must be complied with in order to receive and/or retain a special recreation permit.

(2) The department shall require commercial users, except vendors, to obtain a professional liability insurance policy covering property damage and personal injury that the department judges sufficient to protect the public, the state of Montana, and the federal government.

(3) The department may require insurance for competitive events, vendors or organized group activities if the department determines that the proposed activity may cause appreciable environmental degradation or risk to human safety or health.

(4) The department shall require permittees to report their use of the Blackfoot River and lands adjacent to the Blackfoot River that are owned or managed by the department. The department shall include specific reporting requirements as permit stipulations.

(5) The department may require an applicant to submit a payment bond or other financial guarantee if the department determines that the proposed use, activity or event might cause appreciable environmental degradation or risk to human health and safety. (History: 23-1-106, 23-2-103, 87-1-301, 87-1-303, MCA; IMP, 23-1-106, 87-1-301, 87-1-303, MCA; NEW, 2005 MAR p. 430, Eff. 4/1/05.)

Rules 12.11.6556 through 12.11.6559 reserved

12.11.6560 PERMIT RENEWALS (1) The department may renew a special recreation permit upon application at the end of its term only if:

(a) the permit is in good standing;

(b) the permitted activity is consistent with management plans and policies that apply to the Blackfoot River and lands adjacent to the Blackfoot River that are owned or managed by the department; and

(c) the permittee and his/her affiliates have a satisfactory record of performance. (History: 23-1-106, 23-2-103, 87-1-301, 87-1-303, MCA; IMP, 23-1-106, 87-1-301, 87-1-303, MCA; NEW, 2005 MAR p. 430, Eff. 4/1/05.)



Rules 12.11.6561 through 12.11.6564 reserved

12.11.6565 PERMIT TRANSFERS (1) In the case of a sale or transfer of a business that is authorized to conduct commercial use on the Blackfoot River, the person or entity acquiring the business must complete the standard permit application process as provided for in ARM 12.11.6530 and 12.11.6235. (History: 23-1-106, 23-2-103, 87-1-301, 87-1-303, MCA; IMP, 23-1-106, 87-1-301, 87-1-303, MCA; NEW, 2005 MAR p. 430, Eff. 4/1/05.)

Rules 12.11.6566 through 12.11.6569 reserved

12.11.6570 AMENDMENT, SUSPENSION, OR CANCELLATION OF A SPECIAL RECREATION PERMIT (1) The department may amend, suspend, or cancel a special recreation permit if necessary to protect public health, public safety, or the environment.

(2) The department may suspend or cancel a special recreation permit if the permittee violates or fails to comply with a permit stipulation or is convicted of violating a federal or state law or regulation concerning the conservation or protection of natural resources, the environment, endangered species, or antiquities. (History: 23-1-106, 23-2-103, 87-1-301, 87-1-303, MCA; IMP, 23-1-106, 87-1-301, 87-1-303, MCA; NEW, 2005 MAR p. 430, Eff. 4/1/05.)

Rules 12.11.6571 through 12.11.6574 reserved

12.11.6575 SPECIAL RECREATION PERMIT APPEAL PROCESS

(1) A person who has been denied a special recreation use permit or denied renewal of a special recreation permit, or a person whose special recreation permit has been suspended or cancelled may appeal the permitting decision in writing to the director within 30 days of the date of mailing of the notice of the permitting decision. Persons not appealing within 30 days have waived their right to appeal.

(2) The director or the director's designee shall issue a written decision on the appeal. The director's decision is final. (History: 23-1-106, 23-2-103, 87-1-301, 87-1-303, MCA; IMP, 23-1-106, 87-1-301, 87-1-303, MCA; NEW, 2005 MAR p. 430, Eff. 4/1/05.)